

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
November 27, 2007 Session

IN RE: ESTATE OF THELMA RUTH HARE, Deceased

**Direct Appeal from the Circuit Court for Davidson County
No. 05P-1582 Randy Kennedy, Judge**

No. M2007-00563-COA-R3-CV - Filed December 19, 2007

The Tennessee Bureau of TennCare filed a claim pursuant to Tennessee Code Annotated § 71-5-116(c) to recover medical benefits paid on behalf of Decedent from Decedent's estate. The trial court dismissed the action as time-barred under Tennessee Code Annotated §§ 30-2-307 and 310. The Bureau appeals, asserting its right to recover is not subject to the limitations period prescribed in Title 30. We affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed; and
Remanded**

DAVID R. FARMER, J., delivered the opinion of the court, in which ALAN E. HIGHERS, P.J., W.S., and HOLLY M. KIRBY, J., joined.

Robert E. Cooper, Jr., Attorney General and Reporter and L. Vincent Williams, Deputy Attorney General, for the Tennessee Bureau of TennCare.

Peggy D. Mathes, Administrator of Estate of Thelma Ruth Hare, *Pro Se*.

OPINION

The Tennessee Bureau of TennCare ("the Bureau") once again appeals the probate court's determination that the limitations period applicable to the filing of claims against a decedent's estate applies to claims asserted by the Bureau for recovery of correctly paid medical benefits under Tennessee Code Annotated § 71-5-116(c). The facts relevant to this appeal are undisputed. Beginning September 2002, the Bureau correctly paid medical benefits to Thelma Ruth Hare (Ms. Hare), who subsequently died on March 1, 2003, at the age of eighty-seven. On August 15, 2005, the Bureau filed an action to appoint an administrator in the Chancery Court for Davidson County. The action was transferred to probate court and, on November 23, 2005, the probate court appointed an administrator. On March 31, 2006, the Bureau filed a claim against Ms. Hare's estate for reimbursement of medical benefits in the amount of \$28,101.83. The administrator of Ms. Hare's estate filed an exception to the claim in April 2006, asserting the limitations period for the filing of claims against Ms. Hare's estate had expired. In September 2006, the probate court dismissed the

claim as time-barred where it was filed more than twelve months after Ms. Hare's death. The Bureau appeals; we affirm.

Issues Presented

The issues raised for our review, as presented by the Bureau, are:

- (1) Whether the probate court erred by adding additional exceptions or qualifications to the Bureau's right to recover correctly paid benefits.
- (2) Whether the Bureau's recovery of correctly paid benefits is outside the scope of Tennessee Code Annotated § 30-2-307(a)(1) and § 30-2-310(b) limitations.
- (3) Whether the probate court erred when it barred the Bureau's claim under the rationale of *In Re Estate of Luck*.
- (4) Whether Tennessee Code Annotated § 71-5-116(c) and § 30-2-321 are special statutes that control over the general limitations of §§ 30-2-307(a)(1) and 30-3-310(b).

Standard of Review

The issues presented on appeal are matters of statutory construction. Questions of statutory construction are issues of law which we review *de novo*, with no presumption of correctness attached to the determinations of the trial court. *Taylor v. Fezell*, 158 S.W.3d 352, 357 (Tenn. 2005). We likewise review the trial court's application of the law to the facts *de novo*, with no presumption of correctness. *State v. Thacker*, 164 S.W.3d 208, 248 (Tenn. 2005).

Analysis

We begin our analysis with the well-established rules of statutory construction. When interpreting a statute, the court is to "ascertain and give effect to the legislative intent without unduly restricting or expanding the statute's coverage beyond its intended scope." *Hathaway v. First Family Fin. Servs., Inc.*, 1 S.W.3d 634, 640 (Tenn. 1999) (citations omitted). We must ascertain the intent of the legislature from the natural and ordinary meaning of the statutory language and in context of the entire statute, without forcing a construction that would limit or expand its scope. *JJ & TK Corp. v. Bd. of Comm'rs*, 149 S.W.3d 628, 630-31 (Tenn. Ct. App. 2004) (citations omitted). When the language of a statute is clear, we must utilize the plain, accepted meaning of the words used by the legislature to ascertain the statute's purpose and application. If the wording is ambiguous, however, we must look to the entire statutory scheme and at the legislative history to ascertain the legislature's intent and purpose. We must construe statutes in their entirety, assuming that the legislature chose the words of the statute purposely, and that the words chosen "convey some intent and have a

meaning and a purpose” when considered within the context of the entire statute. *Eastman Chem. Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004) (citations omitted). With these principles in mind, we turn to the Bureau’s assertion that its claim is not time-barred despite being undisputedly filed beyond the limitations period.

We recently addressed issues identical to those raised in this case in *In Re Estate of Tanner*, No. M2006-02640-COA-R3-CV, 2007 WL 4287373 (Tenn. Ct. App. Dec. 7, 2007); *In Re: Estate of Anderson*, No. M2006-02303-COA-R3-CV, 2007 WL 4116223 (Tenn. Ct. App. Nov. 16, 2007); and *In Re: Estate of Henkel*, No. M2006-02641-COA-R3-CV, 2007 WL 4117791 (Tenn. Ct. App. Nov. 16, 2007). As we stated in *In Re Estate of Tanner*, we find it unnecessary to reiterate the analysis provided in *In Re Estate of Anderson* and *In Re Estate of Henkel*. The language of the statutory sections is clear and unambiguous. Nothing in the statutory scheme exempts the Bureau from the limitations period. We decline the Bureau’s invitation to overrule *In Re Estate of Anderson* and *In Re Estate of Henkel*.

Holding

In light of the foregoing, the judgment of the trial court is affirmed. Costs of this appeal are taxed to the Appellant, the Tennessee Bureau of TennCare, and its surety.

DAVID R. FARMER, JUDGE